

REMARKS/ARGUMENTS

The instant amendment responds to both the Office Action dated June 13, 2008, and the Notice of Non-Compliant Amendment dated June 30, 2008.

Applicants have studied the Office Action and have made amendments to the claims only to address the Section 112 issue. It is submitted that the application is in condition for allowance.

Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action dated June 30, 2008, the Examiner:

- I. (1) granted applicants' request for continued examination under CFR 1.114 and withdrew the finality of the previous Office Action, dated January 22, 2008;
- II. (2-3) rejected claim 26 as being indefinite under 35 U.S.C. § 112, second paragraph;
- III. (4-5) rejected claims 1-10, 12-16, 18, 20-25, 27-36, 38, 55-57, 66, 83-85, and 87 under 35 U.S.C. § 103(a) as being obvious over Meeker (U.S. Patent No. 2,108,206) in view of Heil, Jr. et al. (U.S. Patent No. 5,514,174) (hereinafter "Heil, Jr.") and further in view of Ley (U.S. Patent No. 5,514,076);
- IV. (6) rejected claims 1, 5, 11, 15, 17, 19, 37, 39, 88, and 89 under 35 U.S.C. § 103(a) as being obvious over Wittkamp (U.S. Patent No. 4,142,530) in view of Ley (U.S. Patent No. 5,514,076);
- V. (7) rejected claims 39 and 60 under 35 U.S.C. § 103(a) as being obvious over Biggs et al. (U.S. Patent No. 6,599,311) in view of Heil, Jr. (U.S. Patent No. 5,514,174);
- VI. (8) rejected claims 39-54, 58, 59, 61-65, and 86 under 35 U.S.C. § 103(a) as being obvious over Meeker (U.S. Patent No. 2,108,206) in view of Heil, Jr. (U.S. Patent No. 5,514,174) and Ley (U.S. Patent No. 5,514,076), and further in view of Green (U.S. Patent 5,928,137); and
- VII. (9) withdrew the allowable subject matter in claims 17 and 19 in view of new grounds of rejection.

I. (1) Request for Continued Examination

Applicants appreciatively acknowledge the Examiner's statement that the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114 due to the timely filing of a request for continued examination under 37 CFR 1.114 with the appropriate fee under 37 CFR 1.17(e).

II. (2-3) Rejection under 35 U.S.C. § 112, second paragraph

The Examiner states that claim 26 is rejected for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants notice that the same issue is present in claims 10 and 85-87 and, thus, have made amendments to claims 10, 26, and 85-87. It is believed the above amendments resolve the 35 U.S.C. § 112, second paragraph, rejection in items 2-3 of the June 13, 2008 Office Action.

Support for these changes may be found on pages 3-8 of the specification of the instant application, more specifically, paragraphs 0052, 0074, 0079-0083, and 0088-0089.

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, second paragraph. The above noted changes to the claims are provided solely for the purpose of satisfying the requirements of 35 U.S.C. § 112. The changes are neither provided for overcoming the prior art nor do they narrow the scope of the claim for any reason related to the statutory requirements for a patent.

III. (4-5) Rejection under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claims 1-10, 12-16, 18, 20-25, 27-36, 38, 55-57, 66, 83-85, and 87 under 35 U.S.C. § 103(a) as being obvious over Meeker (U.S. Patent No. 2,108,206) in view of Heil, Jr. (U.S. Patent No. 5,514,174) and further in view of Ley (U.S. Patent No. 5,514,076). Reconsideration of the application is requested.

As will be explained below, it is believed that the claims are patentable over the cited art in their original form and, therefore, the claims have not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Independent claim 1 recites, *in relevant part*, a retractor for manipulating an object, including:

a head connected to the distal end of the body, the head defining at least a portion of a set of curved tracks, each track having a respective arcuate segment;

flexible needles of a shape memory material having a memory shape including a portion with an arcuate shape, each of the needles being disposed slidably within a respective one of the arcuate segments; and

an actuation device connected to the proximal end of the body and operatively connected to the needles through the body, the actuation device, upon actuation thereof, moving the needles to selectively extend the needles out of the head through the arcuate segments and withdraw the needles into the head through the arcuate segments.

Independent claim 66 recites, *in relevant part*, a tissue retractor, including:

a head connected to the distal end of the body, the head defining two opposing openings and at least a portion of a set of curved tracks, each track having a respective arcuate segment;

flexible needles of a shape memory material having a memory shape including a portion with an arcuate shape, each of the needles being disposed slidably within a respective one of the arcuate segments; and

a one-handed actuation device connected to the proximal end of the body and operatively connected to the needles through the body, the actuation device, upon actuation thereof, moving the needles to selectively extend the needles out of the head through the arcuate segments and withdraw the needles into the head through the arcuate segments.

Meeker discloses an instrument including a retraction device for manipulating or grasping an object with teeth. As shown in Fig. 4 of Meeker, the outer surface of the barrel has openings where the teeth exit and enter. The specification describes these openings in the barrel as "slots" where the points or prongs of the teeth project from or are drawn into the barrel. See Meeker at col. 1 (right), lines 15-18. As shown in FIGS. 7 and 8 in the instant invention, the curved track defines a path in which the needles travel. The track is not merely an opening or "slot" where the teeth actuate, as in Meeker, but is a defined arcuate segment in which the needles travel.

As Meeker clearly does not teach the curvature of the arcuate segments, the Examiner combines Meeker with Heil, Jr. to form a first combination of this three-reference obviousness rejection under Section 103(a). The combination of these two references does not assist the Section 103 rejection because neither the curved hook in Heil, Jr. nor the teeth of Meeker is slidably present within a "respective arcuate segment" as recited in the claim language of the instant invention. If neither reference discloses or suggests this claimed feature, the combination thereof cannot be said to suggest this feature. More particularly, FIG. 5 of Heil, Jr. (reproduced below for the Examiner's convenience) conspicuously illustrates the various positions of Heil, Jr.'s curved hook.

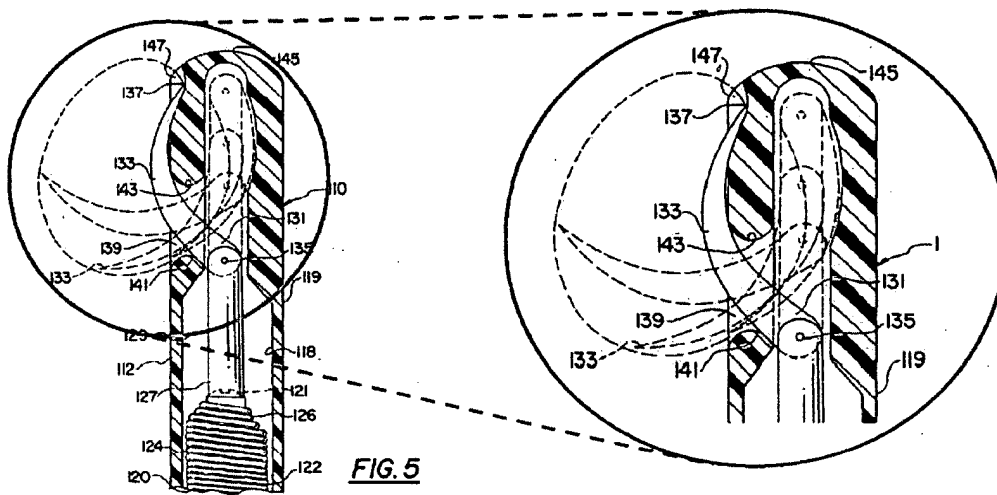


FIG. 5 of Heil, Jr.

The meaning of Heil, Jr.'s term "radial opening", when viewed in association of FIG. 5, becomes apparent. FIG. 5 shows the opening of the tubular housing where the curved hook 133 resides and pivots on the thrust rod, based on its actuation. The outermost edges of this opening have a radial shape and this shape provides a greater degree of travel for the curved hook 133, but it is not a track as defined in the claims. It cannot be disputed that the curved hook 133 remains in the "radial opening" at all times. See Heil, Jr. at col. 8, lines 45-46. But it also cannot be disputed that a mere "radial opening" is similar to the "curved track" of the instant claims. In fact, the Heil, Jr. opening cannot be compared to a curved track. The curved hook 133 oscillates about a pivot point 135 in a thrust rod 127 as the rod advances and retracts. See Heil, Jr. at col. 8, lines 56-65, and FIG. 5 above. The curved hook 133 does not

travel **through** the “radial opening,” but merely pivots to different orientations **within** the “radial opening” based upon the position of the thrust rod 127. *Id.* The “radial opening” of Heil, Jr., therefore, in no way **defines** a path in which a curved hook 133 travels. At most, the curved edges of the “radial opening” are merely end stops for defining the opposing extreme positions of the curved hook 133.

It is respectfully submitted that the “slots” in Meeker and the “radial opening” in Heil, Jr. are mistakenly being compared to and referred to as “tracks” – which are defined in the specification of the instant application and simply are not comparable.

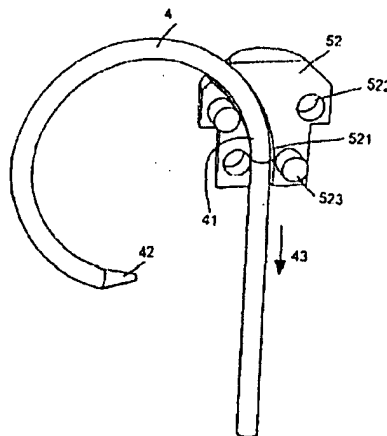


FIG. 7

FIG. 7 of 10/728,389

In stark comparison, the needles of the instant invention **slide through arcuate segments of the curved tracks**. As shown in FIG. 7 of the instant invention (presented above), the track 521 guides the needle 4 while it extends and retracts through the head 52. See Specification at page 4, paragraph 0062.

Based upon the above, it is possible to illuminate the differences between the claimed invention and the Meeker/Heil, Jr. with the following example. A railroad car passes through the opening of a tunnel, but it rides on the railroad tracks. The tracks define the exact path the railroad car travels. In contrast, the tunnel opening merely describes a broad space through which the railroad car passes in any number of possible ways if it were not for the presence of the tracks. In the instant invention, the tracks in the tip halves **define the path** in which the needles travel. Conversely, the “slot” and “radial opening” of Meeker and Heil,

Jr., respectively, simply define a space through which the teeth or curved hook 133 may travel, but it does not constrain travel of the teeth or curved hook 133.

Neither Meeker nor Heil, Jr. teach flexible needles that are a shape memory material having a memory shape. As such, the Examiner finished the tri-partite combination by adding Ley to the disclosures of Meeker and Heil, Jr. However, like Meeker and Heil, Jr., Ley also does not disclose or suggest needles traveling through **“curved tracks, each track having a respective arcuate segment”** as set forth in the present claims. Ley merely discloses a surgical retractor used to pull away anatomical structures following an incision. It would not have been obvious to one having ordinary skill in the art at the time the invention was made to combine Meeker in view of Heil, Jr. in further view of Ley to arrive at the instant invention. Moreover, when viewed in combination, none of the aforementioned references disclose a **curved track with arcuate segments and needles that slide through the arcuate segments of the curved tracks.**

So, even though the rejection of claims 1 and 66 is entirely silent with respect to the above-highlighted features of claims 1 and 66, the rejection was made in the Office action. The only argument that the Examiner provides with respect to completing this three-reference combination rejection is set forth in its entirety as follows:

it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the above disclosed teachings of Meeker in view of Heil, Jr. in further view of Ley.

This single, half-sentence clause is the exact kind of reasoning frowned upon by the Supreme Court. In *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (April 30, 2007), the Supreme Court states that the “analysis [of obviousness] should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).” Here, there is no such explicit analysis, just a single conclusory statement. Thus, the Examiner entirely fails to meet the burden of showing how these references can possibly suggest using curved tracks with arcuate segments as set forth in claims 1 and 66.

The Supreme Court has held that the Federal Circuit's teaching, suggestion, or motivation test is not inconsistent with the analysis set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), and can be used in the "expansive and flexible approach" of determining obviousness *vel non*. *KSR*, 127 S. Ct. at 1739. See also *DyStar Textilfarben GmbH & Co. Deutschland KG. v C.H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006) (flexible approach); *Alza Corp. v. Mylan Labs., Inc.*, 464 F.3d 1286, 1291 (Fed. Cir. 2006) (flexibility in obviousness jurisprudence). Applied to the circumstances here, there is no teaching, no suggestion, and no motivation to arrive at the features of the instant claims.

It is well settled that almost all claimed inventions are but novel combinations of old features. The courts have held in this context, however, that when "it is necessary to select elements of various teachings in order to form the claimed invention, we ascertain whether there is any suggestion or motivation **in the prior art** to make the selection made by the applicant". *Interconnect Planning Corp. v. Feil*, 227 USPQ 543, 551 (Fed. Cir. 1985) (emphasis added). "Obviousness can not be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination". *In re Bond*, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). "Under Section 103 teachings of references can be combined **only** if there is some suggestion or incentive to do so." *ACS Hospital Systems, Inc. v. Montefiore Hospital et al.*, 221 USPQ 929, 933, 732 F.2d 1572 (Fed. Cir. 1984) (emphasis original). "Although a reference need not expressly teach that the disclosure contained therein should be combined with another, the showing of combinability, in whatever form, must nevertheless be **'clear and particular.'**" *Winner Int'l Royalty Corp. v. Wang*, 53 USPQ2d 1580, 1587, 202 F.3d 1340 (Fed. Cir. 2000) (emphasis added; citations omitted); *Brown & Williamson Tobacco Corp. v. Philip Morris, Inc.*, 56 USPQ2d 1456, 1459 (Fed. Cir. Oct. 17, 2000). Applicants respectfully believe that there is no "clear and particular" teaching or suggestion in Meeker to incorporate the features of **both** Heil, Jr. **and** Ley, and there is no "clear and particular" teaching or suggestion in **both** Heil, Jr. **and** Ley to incorporate the features of Meeker.

In establishing a *prima facie* case of obviousness, **it is incumbent upon the Examiner** to provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. *Ex parte*

Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Int. 1985). To this end, the requisite motivation must stem from some teaching, suggestion, or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from the applicant's disclosure. See, for example, *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1052, 5 USPQ2d 1434, 1439 (Fed. Cir. 1988), *cert. den.*, 488 U.S. 825 (1988). The Examiner has not provided the requisite reason why one of ordinary skill in the art would have been led to modify Meeker with both Heil, Jr. and Ley or to combine Meeker's teachings with both Heil, Jr.'s and Ley's teachings to arrive at the claimed invention.

The Examiner simply has failed to meet the burden for satisfying the above requirements to allow a combination rejection to stand. Thus, it must be reversed.

A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. See *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." *Id.* (quoting *W.L. Gore & Assocs. Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Applicants respectfully believe that any teaching, suggestion, or incentive possibly derived from the prior art is only present with hindsight judgment in view of the instant application. "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. . . . The references **themselves** must provide some teaching whereby the applicant's combination would have been obvious." *In re Gorman*, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991) (emphasis added). Here, no such teaching is present in the cited references.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 and 66. Claims 1 and 66

are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1 or claim 66.

IV. (6) Rejection under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claims 1, 5, 11, 15, 17, 19, 37, 39, 88, and 89 under 35 U.S.C. § 103(a) as being obvious over Wittkampff (U.S. Patent No. 4,142,530) in view of Ley (U.S. Patent No. 5,514,076). Reconsideration of the application is requested.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and, therefore, the claims have not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Independent claims 1 and 39 recite, *in relevant part*, a retractor for manipulating an object, including:

a head connected to the distal end of the body, the head defining at least a portion of a **set of curved tracks, each track having a respective arcuate segment**;

flexible needles of a shape memory material having a memory shape including a portion with an arcuate shape, each of the needles being disposed slidably within a respective one of the arcuate segments; and

an actuation device connected to the proximal end of the body and operatively connected to the needles through the body, the actuation device, upon actuation thereof, moving the needles to selectively extend the needles out of the head through the arcuate segments and withdraw the needles into the head through the arcuate segments.

Wittkampff discloses an epicardial lead with electrode tips 38-1, 38-2 adapted to secure to the epicardium. As shown in FIGS. 1 and 2 of Wittkampff, the electrode contact elements are inserted to prevent movement of the electrode head. See Wittkampff at col. 4, lines 26-30. Nowhere does Wittkampff disclose a curved track with arcuate segments and needles that slide through the arcuate segments of the curved tracks while extending and retracting through the head of the instant invention, as in claims 1 and 39 of the instant application. Wittkampff merely calls for the tip elements 38-1, 38-2 to extend through the bottom of the lead in water-tight retention. See Wittkampff at col. 3, lines 19-22. This in no way discloses

or suggest a curved track with arcuate segments and needles that slide through the arcuate segments of the curved tracks as required in claims 1 and 39 of the instant application.

Neither Wittkamp alone, or taken in view of Ley, disclose a head containing curved tracks with arcuate segments and needles that slide through the arcuate segments of the curved tracks. As mentioned earlier, Ley merely discloses a surgical retractor used to pull away anatomical structures following an incision. Since Wittkamp does not disclose, nor require, a specific path for the extension of the tip elements, it would not have been obvious to one skilled in the art at the time of the Wittkamp invention to combine Ley with Wittkamp since a memory shape material would not improve the functionality of the tip elements in Wittkamp.

Applicants respectfully believe that any teaching, suggestion, or incentive possibly derived from the prior art is only present with hindsight judgment in view of the instant application. "It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). The Examiner has attempted to meet his burden with an impermissible hindsight view of the current state of the art, thus, the combination rejection must fail.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1 and 39. Claims 1 and 39 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1 or 39.

V. (7) Rejection under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claims 39 and 60 under 35 U.S.C. § 103(a) as being obvious over Biggs et al. (U.S. Patent No. 6,599,311) in view of Heil, Jr. (U.S. Patent No. 5,514,174). Reconsideration of the application is requested.

As will be explained below, it is believed that the claims were patentable over the cited art in their original form and, therefore, the claims have not been amended to overcome the references.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Independent claim 39 recites, *in relevant part*, a retractor for manipulating an object, including:

a head connected to the distal end of the body, the head defining at least a portion of a **set of curved tracks, each track having a respective arcuate segment**;

flexible needles of a shape memory material having a memory shape including a portion with an arcuate shape, each of the **needles being disposed slidably within a respective one of the arcuate segments**; and

an actuation device connected to the proximal end of the body and operatively connected to the needles through the body, the actuation device, upon actuation thereof, moving the needles to selectively extend the needles out of the head through the arcuate segments and withdraw the needles into the head through the arcuate segments.

Biggs discloses a plurality of anchors to reduce the volume of a lung. Nowhere does Biggs mention flexible needles that slide within a set of curved tracks with arcuate segments. As shown in FIGS. 9 through 13, 19 to 20, 54 to 60, 63, and 64, the Biggs anchors are biased in a closed spring configuration prior to insertion. At the appropriate location, the spring bias is released and the anchor expands to its natural, unbiased position without the possibility of retraction/withdrawal. Unlike Biggs, the instant invention, when actuated, **selectively extends and withdraws** the needles through curved tracks with arcuate segments any number of times all with the possibility of withdrawal. Taking Biggs in view of Heil, Jr. does not overcome this. As noted above, Heil, Jr. merely discloses a curved hook 133 that resides in different orientations of a "radial opening." See Heil, Jr. at col. 8, lines 45-46. The outer edges that define this "radial opening" merely account for the degree of travel for the curved hook 133 when pivoted about the thrust rod 127. While FIG. 5 of Heil, Jr. portrays a "radial opening" having a curved profile at the outer edges, this in no way resembles a set of curved tracks with arcuate segments as required by claim 39.

Clearly, Biggs taken in view of Heil, Jr. does not show a set of curved tracks with arcuate segments as recited in claim 39 of the instant application. It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 39. Claim 39 is, therefore, believed to be patentable over the art. The claims dependent therefrom are believed to be patentable as well because they all are ultimately dependent on claim 39.

VI. (8) Rejection under 35 U.S.C. § 103(a)

As noted above, the Examiner rejected claims 39-54, 58, 59, 61-65, and 86 under 35 U.S.C. § 103(a) as being obvious over Meeker (U.S. Patent No. 2,108,206) in view of Heil, Jr. (U.S. Patent No. 5,514,174) and Ley (U.S. Patent No. 5,514,076), and further in view of Green (U.S. Patent 5,928,137). Reconsideration of the application is requested.

As set forth in Section III above, Meeker in view of Heil, Jr., and further in view of Ley cannot be said to suggest the invention set forth in claims 1 and 66. Because the relevant features of claims 1 and 66 are also present in claim 39, the aforementioned arguments lay the foundation supporting why the combination of Meeker in view of Heil, Jr. and further in view of Ley does not disclose needles traveling through curved tracks with arcuate segments. These arguments are hereby incorporated herein by reference. Although Green discloses a flexible endoscope, it does not overcome the deficiencies of Meeker, Heil, Jr., and Ley to suggest claim 39. As such, this four-reference combination rejection fails. As an aside, the Examiner rejects claim 39 as being unpatentable over Meeker in view of Heil, Jr. and Ley, and further in view of Green, yet the Examiner fails to indicate why Heil, Jr. was included in this Section 103(a) combination rejection. Regardless of the propriety of Heil, Jr.'s inclusion, the combination of the cited references, with or without Heil, Jr., do not suggest the features of claim 39.

The only argument that the Examiner provides with respect to completing this four-reference combination rejection is set forth in its entirety as follows:

it would have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Green, to include a flexible endoscope with the device Meeker in view of Ley.

As noted previously, this single, half-sentence clause is the exact kind of reasoning frowned upon by the Supreme Court. In *KSR*, 127 S. Ct. at 1741, the Supreme Court states that the "analysis [of obviousness] should be made explicit. See *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness")." Here, there is no such explicit analysis, just a single conclusory statement.

Thus, the Examiner entirely fails to meet the burden of showing how these references can possibly suggest needles traveling through curved tracks with arcuate segments.

Additionally, by failing to express any reasoning why Heil, Jr. was included in this four-reference combination rejection under Section 103(a), the Examiner acted contrary to *KSR*.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 39. Claim 39 is, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 39.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

It is believed that no fee is due with this Amendment. However, if any fees are due with respect to Sections 1.16 or 1.17, please charge to the deposit account of the undersigned firm, Acct. No. 503,836.

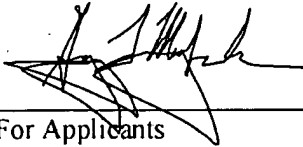
If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Mayback & Hoffman, P.A., No. 503,836.

Amdt. dated July 30, 2008
Reply to 6/13/08 Office action and 6/30/08 Notice of Non-Compliant Amendment

PLEASE CALL the undersigned if discussion would expedite the prosecution of this application or in the event the Examiner should still find any of the claims to be unpatentable, in which case, if possible, patentable language can be worked out.

Respectfully submitted,



For Applicants

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GLM:gp

July 30, 2008

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